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Attorneys for Defendant

LSI Appraisal, LLC

IN THE UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

FELTON A. SPEARS, JR. and ,
SIDNEY SCHOLL, on behalf of themselves
and all others similarly situated,

Plaintiffs,

vs.

WASHINGTON MUTUAL, INC.,
a Washington corporation;
FIRST AMERICAN EAPPRAISEIT,
a Delaware corporation; and
LENDERS SERVICE, INC.,

Defendants.

) Case No. 5:08-cv-00868 (HRL)

) CLASS ACTION

) **[PROPOSED] ORDER GRANTING**
) **DEFENDANT LSI APPRAISAL, LLC'S**
) **MOTION TO DISMISS**

) Date: Tuesday, July 15, 2008

) Time: 10:00 a.m.

) Place: Courtroom 2, 5th Floor

) 280 South 1st Street

) San Jose, CA 95113

) Honorable Howard R. Lloyd

The motion of Defendant LSI Appraisal, LLC (erroneously sued herein as Lenders Service, Inc.) ("LSI") for an order dismissing with prejudice Plaintiffs' First Amended Class Action Complaint ("Complaint") came on hearing on July 15, 2008 at 10:00am before the Court. Having considered the papers in support of and in opposition to the motion, as well as having considered the oral arguments of the parties, papers on file, the record, and applicable authorities and good cause appearing:

1 IT IS HEREBY ORDERED that LSI's motion to dismiss the Complaint is GRANTED in its
2 entirety with prejudice under Rules 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure:
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- 4 1. Plaintiffs Cannot Establish The Basic Jurisdictional Requirements Of Article III
5 Standing.
 - 6 2. Plaintiffs Fail To State A Claim Upon Which Relief Can Be Granted:
 - 7 A. California Law Does Not Recognize A Claim Based on Negligent Appraisal;
 - 8 B. Plaintiffs Have Suffered No Actionable Damages Based on the Appraisal
9 Reports;
 - 10 C. Plaintiffs Cannot State A Claim Under RESPA Against LSI Because LSI Did
11 Not Provide Any Settlement Services In Connection With Plaintiffs' Loans;
 - 12 D. Plaintiffs Are Not Entitled to Restitution Because They Do Not Have
13 Standing to Seek Injunctive Relief;
 - 14 E. CLRA Does Not Apply to Real Estate Transactions;
 - 15 F. Plaintiffs Have Not Sufficiently Alleged the Existence of A Contract; And
 - 16 G. Plaintiffs Cannot Recover For Quasi-Contract Because LSI Never Received A
17 Benefit from Plaintiffs.
- 18
19

20 IT IS SO ORDERED
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22 Dated: _____
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THE HONORABLE HOWARD R. LLOYD
UNITED STATES MAGISTRATE JUDGE